

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LES FIELDS/C.C.H.I. INSURANCE
SERVICES,

Plaintiff,

v.

STUART M HINES, et al.,

Defendants.

Case No. [15-cv-03728-MEJ](#)

ORDER DISMISSING CASE

On August 3, 2017, this Court ordered Plaintiff Les Fields to show cause why the case should not be dismissed for failure to prosecute after he failed to meet the deadline for filing pretrial materials. *See* Second OSC, Dkt. No. 152. As described more fully in that OSC, the parties failed to file their pretrial materials (including pretrial statements, witness and exhibit lists, separate trial briefs, joint voir dire statement and questions, joint jury instructions, and joint proposed verdict forms) by the July 26, 2017 deadline set by the Court in its Case Management Scheduling Order. *Id.* Defendants notified the Court that Plaintiff had failed to come prepared to meaningfully confer with Defendants regarding witnesses, exhibits, and other topics required by the Court in its Case Management Order, and did not participate in the conference in good faith; they requested an extension of time to prepare for trial. *See* Mot. for Extension, Dkt. No. 150. For his part, Plaintiff did not inform the Court of any problems or explain why he missed this deadline; he also did not respond to Defendants' filing or request for an extension. *See* Dkt. As a result, the Court vacated all pretrial and trial deadlines, including the October 16, 2017 trial date. *See* OSC.

This was not the first time Plaintiff failed to meet court deadlines, prosecute his case, or

1 follow Court orders. *See, e.g.*, Order to File Separate Statements, Dkt. No. 66 (failure to file
2 separate statement in support of motion for summary judgment); First OSC, Dkt. No. 75 (failure to
3 prosecute and comply with court deadlines; plaintiff failed to file oppositions to motions for
4 summary judgment after receiving two-week extension to do so); Order re Pl.'s Resp. to OSC,
5 Dkt. No. 79 (imposing financial sanctions on Plaintiff for his failure to file separate statement after
6 being ordered to do so and failure to file oppositions by extended deadline); Order re Summ. J. at
7 3-6, Dkt. No. 92 (identifying Plaintiff's violations of Federal Rule of Civil Procedure 56, summary
8 judgment standards, and Local Rule 7-3(a)); Order for Sanctions, Dkt. No. 94 (ordering Plaintiff
9 to pay \$7,164.50 in attorneys' fees and costs Defendants incurred in drafting responses to Court's
10 OSC and replies to summary judgment motions); Order re Pretrial Matters, Dkt. No. 125 (failure
11 to contact settlement judge to schedule further settlement conference, as ordered); Order re
12 Michael Nealy MIL, Dkt. No. 126 (Plaintiff failed to oppose motion in limine on merits and
13 instead incorrectly and inexplicably argued Defendant failed to file memorandum in support of
14 motion when Defendant had done so, as evidenced on the ECF docket); Order Striking Kenneally
15 Decl., Dkt. No. 129 (striking Plaintiff's counsel's declaration because it did not sufficiently
16 respond to the Court's prior Order and constituted improper attempt to respond to merits of MIL).

17 In response to the Court's latest OSC, Counsel for Plaintiff acknowledged the Court
18 "[w]ithout a doubt has the power to involuntarily dismiss the case for failure to obey pretrial
19 orders" pursuant to Federal Rule of Civil Procedure 16(f). Response, Dkt. No. 153. The Court
20 continued the OSC and ordered the parties to attend one more settlement conference on September
21 18, 2017. Dkt. No. 156. The case did not settle.

22 Given Plaintiff's repeated failures to obey pretrial orders, complete and unexcused failure
23 to timely submit pretrial materials ordered by the Court in its Case Management Order, the waste
24 of time and resources those failures have imposed on both the Court and Defendants, and the fact
25 lesser sanctions have not rectified Plaintiff's conduct, the Court now DISMISSES Plaintiff's
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remaining claims against all Defendants WITH PREJUDICE. *See* Fed. R. Civ. P. 16(f).

IT IS SO ORDERED.

Dated: October 3, 2017



MARIA-ELENA JAMES
United States Magistrate Judge